

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the proposed amendment)	NOTICE OF PUBLIC HEARING
of ARM 23.16.102, 23.16.103, 23.16.117,)	ON PROPOSED AMENDMENT
23.16.401, 23.16.502, 23.16.508,)	
23.16.1245, 23.16.1716, 23.16.1914,)	
23.16.1915, 23.16.1916, 23.16.1916A,)	
23.16.2001, 23.16.2107, and)	
23.16.2302 concerning the effective date)	
of forms, removal of Form 1 from the)	
rules, and application time limit for)	
utilizing an approved automated)	
accounting and reporting system as part of)	
a vending agreement)	

TO: All Concerned Persons

1. On November 15, 2007, at 9:00 a.m., the Montana Department of Justice will hold a public hearing in the conference room at the Gambling Control Division, 2550 Prospect Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on November 9, 2007, to advise us of the nature of the accommodation that you need. Please contact Rick Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; telephone (406) 444-1971; Fax (406) 444-9157; Montana Relay Service 711; or e-mail rask@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

23.16.102 APPLICATION FOR GAMBLING LICENSE - LICENSE FEE

(1) and (2) remain the same.

(3) The application must also contain:

(a) ~~a document authorizing~~ authorization for the examination and release of information for use in assessing a gambling license application ~~(form 1), dealer license application (form 2), or nonprofit organization gambling license application (form 3), which must be signed and dated by all or any applicant(s) whose signatures must be attested to before a notary public;~~

(b) remains the same.

(c) a complete set of fingerprints, on a ~~form~~ (Form FD-258) provided by the department, obtained and certified by a local law enforcement agency, the

department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) and (e) remain the same.

(4) Forms 4 through 3, 10 and FD-258, ~~as the forms read on December 1, 2005,~~ are incorporated by reference and available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424.

(5) remains the same.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 16-4-414, 23-5-115, 23-5-177, 23-5-637, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the form, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.102 reflects these changes. The amendment also omits reference in the rule to the forms' revision date which will allow the division to revise forms as necessary without the need to amend the rules.

23.16.103 INVESTIGATION OF APPLICANTS, FINGERPRINTS TO BE REQUIRED - DISCLOSURE FROM NONINSTITUTIONAL LENDER (1) and (2) remain the same.

(3) The department may require any noninstitutional lender to complete a document (Form 13) authorizing examination and release of information and (Form 10) a personal history statement on the lender, fingerprints on a form provided by the department, as well as any contract, statement, or other document from the lender deemed necessary to assess the suitability of an applicant's funding source as required in 23-5-176, MCA. The document must be signed and dated by the lender and attested to by a notary public. Forms 13, 10, and FD-258 ~~as the forms read on December 1, 2005,~~ are incorporated by reference and available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424.

AUTH: 23-5-115, MCA

IMP: 16-4-414, 23-5-115, 23-5-118, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the forms, the division determined it is reasonably necessary to omit reference in the rule to the forms' revision date which will allow the division to revise forms as necessary without the need to amend the rules.

23.16.117 TRANSFER OF INTEREST TO NEW OWNER (1) through (9)(a)(iii) remain the same.

- (iv) a complete set of fingerprints, ~~on a form (Form FD-258)~~ provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement; and
 - (v) ~~authorization to disclose form, (Form 1) as that form is described in ARM 23.16.102(3)(a), filed in the name of the receivership, trust or estate; and~~
 - (vi) the department determines the receiver is suitable to hold or own a license.
- (b) remains the same.

AUTH: 23-5-115, MCA
IMP: 16-4-414, 23-5-115, 23-5-118, 23-5-176, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the forms, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.117 reflects these changes, and makes minor edits in style.

23.16.401 APPLICATION FOR DEALER LICENSE (1) through (1)(b)(ii) remain the same.

- (iii) ~~Forms 4 and 10 for personal history statements.~~
- (2) remains the same.
- (3) The application for a dealer license, ~~is incorporated in these rules by reference as Forms 4 and FD-258, as those forms read on June 22, 2007, and are available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424.~~

AUTH: 23-5-115, MCA
IMP: 16-4-414, 23-5-308, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the form, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.401 reflects these changes. The amendment also omits reference in the rule to the forms' revision date which will allow the division to revise forms as necessary without the need to amend the rules.

23.16.502 APPLICATION FOR OPERATOR LICENSE (1) and (1)(a) remain the same.

- (b) a complete set of fingerprints, ~~on a form (Form FD-258)~~ provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(c) through (2) remain the same.

AUTH: 23-5-115, MCA
IMP: 16-4-414, 23-5-115, 23-5-118, 23-5-176, 23-5-177, MCA

RATIONALE AND JUSTIFICATION: The proposed amendment reflects only a minor edit in style to match references to the form throughout the rules.

23.16.508 CHANGES IN MANAGERS, OFFICERS, AND DIRECTORS

(1) remains the same.

(2) New management employees, officers, and directors shall submit a personal history statement and a complete set of fingerprints (Forms 10 and FD-258) ~~and the appropriate document authorizing the examination and release of information (Form 1, 2, or 3).~~

(3) remains the same.

AUTH: 23-5-115, MCA
IMP: 16-4-414, 23-5-176, 23-5-177, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to re-examine and change certain forms used in the license application process. In revising the forms, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.508 reflects these changes.

23.16.1245 CARD ROOM CONTRACTORS LICENSE (1) through (2)(a) remain the same.

(b) ~~f~~Forms 4, 10 and FD-258 as described in ARM 23.16.102;

(c) a complete set of fingerprints, on a ~~form~~ (Form FD-258) provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) through (4) remain the same.

AUTH: 23-5-115, MCA
IMP: 16-4-414, 23-5-324, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to re-examine and change certain forms used in the license application process. In revising the forms, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.1245 reflects these changes.

23.16.1716 SPORTS TAB GAME SELLER LICENSE (1) remains the same.

(a) a sports tab game seller license application. Forms 2 and FD-258, ~~as the forms read on December 1, 2005, are is incorporated by reference and available upon request from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424;~~

(b) ~~f~~Forms 4 and 10 as described in ARM 23.16.102, available upon request from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424;

(c) a complete set of fingerprints, on a ~~form~~ (Form FD-258) provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) through (4) remain the same.

AUTH: 23-5-115, MCA

IMP: 16-4-414, 23-5-115, 23-5-502, 23-5-503, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the form, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.1716 reflects these changes. The amendment also omits reference in the rule to the forms' revision date which will allow the division to revise forms as necessary without the need to amend the rules.

23.16.1914 DISTRIBUTOR'S LICENSE (1) remains the same.

(a) a distributor's license application, Forms 17 and FD-258, ~~as the forms read on December 1, 2005, are incorporated by reference and available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424;~~

(b) ~~f~~Forms 4 and 10 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on a ~~form~~ (Form FD-258) provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) through (3) remain the same.

AUTH: 23-5-115, MCA

IMP: 16-4-414, 23-5-115, 23-5-128, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the form, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.1914 reflects these changes. The amendment omits reference in the rule to the forms' revision

date which will allow the division to revise forms as necessary without the need to amend the rules, and makes minor edits in style.

23.16.1915 ROUTE OPERATOR'S LICENSE (1) Before conducting business in the state, a route operator shall obtain a license from the department. An applicant for a license shall submit to the department:

(a) a route operator license application, Forms 17 and FD-258, ~~as the forms read on December 1, 2005, are incorporated by reference and~~ available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424;

(b) ~~f~~Forms 1 and 10 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on a ~~form~~ (Form FD-258) provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) through (3) remain the same.

AUTH: 23-5-115, MCA

IMP: 16-4-414, 23-5-115, 23-5-129, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the form, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.1915 reflects these changes. The amendment omits reference in the rule to the forms' revision date which will allow the division to revise forms as necessary without the need to amend the rules, and makes minor edits in style.

23.16.1916 MANUFACTURER'S LICENSE (1) remains the same.

(a) a manufacturer's license application, Forms 17 and FD-258, ~~as the forms read on December 1, 2005, are incorporated by reference and~~ available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424;

(b) ~~f~~Forms 1 and 10 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on a ~~form~~ (Form FD-258) provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) through (3) remain the same.

AUTH: 23-5-115, MCA

IMP: 16-4-414, 23-5-115, 23-5-625, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the form, the division determined it is

appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.1916 reflects these changes. The amendment omits reference in the rule to the forms' revision date which will allow the division to revise forms as necessary without the need to amend the rules, and makes minor edits in style.

23.16.1916A ACCOUNTING SYSTEM VENDOR LICENSE (1) remains the same.

(a) application for an accounting system vendor license using Form 17, with special instructions, and Form FD-258, ~~as the forms read on December 1, 2005, which are incorporated by reference and~~ available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424;

(b) ~~f~~Forms 4 and 10 for all applicants as described in ARM 23.16.102;

(c) through (3) remain the same.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-110, 23-5-637, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the form, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.1916A reflects these changes. The amendment omits reference in the rule to the forms' revision date which will allow the division to revise forms as necessary without the need to amend the rules.

23.16.2001 MANUFACTURER OF ILLEGAL GAMBLING DEVICES - LICENSE - FEE - REPORTING REQUIREMENTS - INSPECTION OF RECORDS - REPORTS (1) remains the same.

(a) a manufacturer license application, Form 17, ~~as the form read on December 1, 2005, is incorporated by reference and~~ available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424;

(b) ~~f~~Forms 4, 10 and FD-258 for all applicants as described in ARM 23.16.102;

(c) a complete set of fingerprints, on a ~~form~~ (Form FD-258) provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department for each person required to complete a personal history statement;

(d) through (7) remain the same.

(8) A person who proposes to import an illegal gambling device to be modified into a gambling machine which is specifically authorized by Montana law or rule must be licensed as a manufacturer and hold the department's approval under ARM 23.16.1901(1)(a) for the machine model to which it is to be modified.

(9) Form 22 ~~as the form read on November 3, 1997, is incorporated by reference and~~ available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424.

AUTH: 23-5-115, 23-5-152, MCA
IMP: 16-4-414, 23-5-112, 23-5-115, 23-5-152, 23-5-611, 23-5-614,
23-5-621, 23-5-625, 23-5-631, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the form, the division determined it is appropriate and in the best interest of the division and the public to combine and simplify certain forms, and this proposed amendment to ARM 23.16.2001 reflects these changes. The amendment omits reference in the rule to the forms' revision date which will allow the division to revise forms as necessary without the need to amend the rules, and makes minor edits in style.

23.16.2107 APPLICATION FOR A VIDEO GAMBLING MACHINE OWNER OR OPERATOR TO UTILIZE AN APPROVED AUTOMATED ACCOUNTING AND REPORTING SYSTEM (1) remains the same.

(2) An owner or operator intending to utilize an approved system in which the data entry and recordkeeping will be performed by the route operator as part of a written vending agreement shall, not less than 30 days prior to the first day of the quarter in which the system is to be utilized, submit to the department an application for use of the approved automated accounting and reporting system.

(2) through (5) remain the same but are renumbered (3) through (6).

AUTH: 23-5-115, 23-5-621, MCA
IMP: 23-5-637, MCA

RATIONALE AND JUSTIFICATION: The proposed amendment is reasonably necessary because it will allow gambling operators whose recordkeeping functions are to be performed by a route operator on the automated accounting and reporting system to make application as soon as 30 days in advance of the next reporting period.

23.16.2302 MANUFACTURER LICENSE (1) remains the same.

(a) an electronic live bingo or keno manufacturer license application (~~f~~Form 17);

(b) ~~f~~Forms 1 and 10 for all applicants as described in ARM 23.16.102;

(c) through (2) remain the same.

AUTH: 23-5-115, MCA
IMP: 23-5-115, 23-5-424, MCA

RATIONALE AND JUSTIFICATION: A recent change in the fee charged by the FBI to process fingerprints has required the division to change certain forms used in the license application process. In revising the form, the division determined it is appropriate and in the best interest of the division and the public to combine and

simplify certain forms, and this proposed amendment to ARM 23.16.2302 reflects these changes.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Rick Ask, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; Fax (406) 444-9157; or e-mail rask@mt.gov, and must be received no later than November 23, 2007.

5. Cregg Coughlin, Assistant Attorney General, Gambling Control Division, has been designated to preside over and conduct the hearing.

6. The Department of Justice maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices of rules regarding the Crime Control Division, the Central Services Division, the Forensic Sciences Division, the Gambling Control Division, the Highway Patrol Division, the Law Enforcement Academy, the Division of Criminal Investigation, the Legal Services Division, the Consumer Protection Division, the Motor Vehicle Division, the Justice Information Systems Division, or any combination thereof. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Rick Ask, 2550 Prospect Avenue, P.O. Box 201424, Helena, MT 59620-1424; Fax (406) 444-9157; or e-mail rask@mt.gov, or may be made by completing a request form at any rules hearing held by the Department of Justice.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

By: /s/ Mike McGrath
MIKE McGRATH
Attorney General, Department of Justice

/s/ Jon Ellingson
JON ELLINGSON
Rule Reviewer

Certified to the Secretary of State October 15, 2007.